

FILED

Raul O. Pinochet  
15662 Amar Rd.  
La Puente, CA 91744

2016 FEB 18 PM 1:52

Defendant In Pro Per  
909-291-5340

CLERK U.S. DISTRICT COURT  
CENTRAL DIST. OF CALIF.  
RIVERSIDE

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
EASTERN DIVISION - RIVERSIDE

SREAM, INC., a California Corporation,

Plaintiff,

vs.

Raul O. Pinochet,

Defendant.

Case No.: No. 5:16-CV-00103-JGB-KK X

**DEFENDANT RAUL O. PINOCHET'S  
ANSWER TO COMPLAINT**

**DEMAND FOR JURY TRIAL**

COMES NOW Defendant, Raul O. Pinochet (hereinafter "DEFENDANT"),  
to herewith answer the Complaint:

1. Answering paragraph 1 of Plaintiff's Complaint, DEFENDANT is  
without sufficient knowledge or information to form a belief as to the truth of the  
allegations contained in said paragraph, and, on the basis, denies the allegations  
contained therein.

2. Answering paragraph 2 of Plaintiff's Complaint, DEFENDANT is  
without sufficient knowledge or information to form a belief as to the truth of the  
allegations contained in said paragraph, and, on the basis, denies the allegations  
contained therein.

3. Answering Paragraph 3 of Plaintiff's Complaint, DEFENDANT is  
without sufficient knowledge or information to form a belief as to the truth of the  
allegations contained in said paragraph, and, on that basis, denies the allegations  
contained therein.

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1           4.     Answering Paragraph 4 of Plaintiff's Complaint, DEFENDANT is  
2 without sufficient knowledge or information to form a belief as to the truth of the  
3 allegations contained in said paragraph, and, on that basis, denies the allegations  
4 contained therein.

5           5.     Answering Paragraph 5 of Plaintiff's Complaint, DEFENDANT is  
6 without sufficient knowledge or information to form a belief as to the truth of the  
7 allegations contained in said paragraph, and, on that basis, denies the allegations  
8 contained therein.

9           6.     Answering Paragraph 6 of Plaintiff's Complaint, DEFENDANT is  
10 without sufficient knowledge or information to form a belief as to the truth of the  
11 allegations contained in said paragraph, and, on that basis, denies the allegations  
12 contained therein.

13           7.     Answering Paragraph 7 of Plaintiff's Complaint, DEFENDANT  
14 admits that he is an individual who operates a store known as "Smoke Town"  
15 located at 15662 Amar Rd, La Puente, California 91744; and, as to all other  
16 allegations in said paragraph, DEFENDANT denies the allegations contained  
17 therein.

18           8.     Answering Paragraph 8 of Plaintiff's Complaint, DEFENDANT is  
19 without sufficient knowledge or information to form a belief as to the truth of the  
20 allegations contained in said paragraph, and, on that basis, denies the allegations  
21 contained therein.

22           9.     Answering Paragraph 9 of Plaintiff's Complaint, DEFENDANT  
23 denies the allegations contained therein.

24           10.    Answering Paragraph 10 of Plaintiff's Complaint, DEFENDANT is  
25 without sufficient knowledge or information to form a belief as to the truth of the  
26 allegations contained in said paragraph, and, on that basis, denies the allegations  
27 contained therein.

1           11. Answering Paragraph 11 of Plaintiff's Complaint, DEFENDANT is  
2 without sufficient knowledge or information to form a belief as to the truth of the  
3 allegations contained in said paragraph, and, on that basis, denies the allegations  
4 contained therein.

5           12. Answering Paragraph 12 of Plaintiff's Complaint, DEFENDANT is  
6 without sufficient knowledge or information to form a belief as to the truth of the  
7 allegations contained in said paragraph, and, on that basis, denies the allegations  
8 contained therein.

9           13. Answering Paragraph 13 of Plaintiff's Complaint, DEFENDANT is  
10 without sufficient knowledge or information to form a belief as to the truth of the  
11 allegations contained in said paragraph, and, on that basis, denies the allegations  
12 contained therein.

13           14. Answering Paragraph 14 of Plaintiff's Complaint, DEFENDANT is  
14 without sufficient knowledge or information to form a belief as to the truth of the  
15 allegations contained in said paragraph, and, on that basis, denies the allegations  
16 contained therein.

17           15. Answering Paragraph 15 of Plaintiff's Complaint, DEFENDANT is  
18 without sufficient knowledge or information to form a belief as to the truth of the  
19 allegations contained in said paragraph, and, on that basis, denies the allegations  
20 contained therein.

21           16. Answering Paragraph 16 of Plaintiff's Complaint, DEFENDANT is  
22 without sufficient knowledge or information to form a belief as to the truth of the  
23 allegations contained in said paragraph, and, on that basis, denies the allegations  
24 contained therein.

25           17. Answering Paragraph 17 of Plaintiff's Complaint, DEFENDANT  
26 denies the allegations contained therein.

27           18. Answering Paragraph 18 of Plaintiff's Complaint, DEFENDANT  
denies the allegations contained therein.

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1           19. Answering Paragraph 19 of Plaintiff's Complaint, DEFENDANT is  
2 without sufficient knowledge or information to form a belief as to the truth of the  
3 allegations contained in said paragraph, and, on that basis, denies the allegations  
4 contained therein.

5           20. Answering Paragraph 20 of Plaintiff's Complaint, DEFENDANT is  
6 without sufficient knowledge or information to form a belief as to the truth of the  
7 allegations contained in said paragraph, and, on that basis, denies the allegations  
8 contained therein.

9           21. Answering Paragraph 21 of Plaintiff's Complaint, DEFENDANT is  
10 without sufficient knowledge or information to form a belief as to the truth of the  
11 allegations contained in said paragraph, and, on that basis, denies the allegations  
12 contained therein.

13           22. Answering Paragraph 22 of Plaintiff's Complaint, DEFENDANT is  
14 without sufficient knowledge or information to form a belief as to the truth of the  
15 allegations contained in said paragraph, and, on that basis, denies the allegations  
16 contained therein.

17           23. Answering Paragraph 23 of Plaintiff's Complaint, DEFENDANT is  
18 without sufficient knowledge or information to form a belief as to the truth of the  
19 allegations contained in said paragraph, and, on that basis, denies the allegations  
20 contained therein.

21           24. Answering Paragraph 24 of Plaintiff's Complaint, DEFENDANT is  
22 without sufficient knowledge or information to form a belief as to the truth of the  
23 allegations contained in said paragraph, and, on that basis, denies the allegations  
24 contained therein.

25           25. Answering Paragraph 25 of Plaintiff's Complaint, DEFENDANT  
26 denies the allegations contained therein.

27           26. Answering Paragraph 26 of Plaintiff's Complaint, DEFENDANT  
denies the allegations contained therein.

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1        27. Answering Paragraph 27 of Plaintiff's Complaint, DEFENDANT  
2 denies the allegations contained therein.

3        28. Answering Paragraph 28 of Plaintiff's Complaint, DEFENDANT  
4 denies the allegations contained therein.

5        29. Answering Paragraph 29 of Plaintiff's Complaint, DEFENDANT  
6 denies the allegations contained therein.

7        30. Answering Paragraph 30 of Plaintiff's Complaint, DEFENDANT  
8 denies the allegations contained therein.

9        31. Answering Paragraph 31 of Plaintiff's Complaint, DEFENDANT  
10 denies the allegations contained therein.

11                                    **FIRST CAUSE OF ACTION**

12        32. Answering Paragraph 32 of Plaintiff's Complaint, DEFENDANT  
13 incorporates here by reference and realleges his answers to paragraphs 1 through  
14 31 of Plaintiff's Complaint.

15        33. Answering Paragraph 33 of Plaintiff's Complaint, DEFENDANT is  
16 without sufficient knowledge or information to form a belief as to the truth of the  
17 allegations contained in said paragraph, and, on that basis, denies the allegations  
18 contained therein.

19        34. Answering Paragraph 34 of Plaintiff's Complaint, DEFENDANT is  
20 without sufficient knowledge or information to form a belief as to the truth of the  
21 allegations contained in said paragraph, and, on that basis, denies the allegations  
22 contained therein.

23        35. Answering Paragraph 35 of Plaintiff's Complaint, DEFENDANT  
24 denies the allegations contained therein.

25        36. Answering Paragraph 36 of Plaintiff's Complaint, DEFENDANT  
26 denies the allegations contained therein.

27        37. Answering Paragraph 37 of Plaintiff's Complaint, DEFENDANT  
denies the allegations contained therein.

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1           38.    Answering Paragraph 38 of Plaintiff's Complaint, DEFENDANT  
2 denies the allegations contained therein.

3           39.    Answering Paragraph 39 of Plaintiff's Complaint, DEFENDANT  
4 denies the allegations contained therein.

5           40.    Answering Paragraph 40 of Plaintiff's Complaint, DEFENDANT  
6 denies the allegations contained therein.

7           41.    Answering Paragraph 41 of Plaintiff's Complaint, DEFENDANT  
8 denies the allegations contained therein.

9           42.    Answering Paragraph 42 of Plaintiff's Complaint, DEFENDANT  
10 denies the allegations contained therein.

11                               **SECOND CAUSE OF ACTION**

12           43.    Answering Paragraph 43 of Plaintiff's Complaint, DEFENDANT  
13 incorporates here by reference and realleges his answers to paragraphs 1 through  
14 42 of Plaintiff's Complaint.

15           44.    Answering Paragraph 44 of Plaintiff's Complaint, DEFENDANT is  
16 without sufficient knowledge or information to form a belief as to the truth of the  
17 allegations contained in said paragraph, and, on that basis, denies the allegations  
18 contained therein.

19           45.    Answering Paragraph 45 of Plaintiff's Complaint, DEFENDANT is  
20 without sufficient knowledge or information to form a belief as to the truth of the  
21 allegations contained in said paragraph, and, on that basis, denies the allegations  
22 contained therein.

23           46.    Answering Paragraph 46 of Plaintiff's Complaint, DEFENDANT is  
24 without sufficient knowledge or information to form a belief as to the truth of the  
25 allegations contained in said paragraph, and, on that basis, denies the allegations  
26 contained therein.

27           47.    Answering Paragraph 47 of Plaintiff's Complaint, DEFENDANT  
denies the allegations contained therein.

1           48.    Answering Paragraph 48 of Plaintiff's Complaint, DEFENDANT  
2 denies the allegations contained therein.

3           49.    Answering Paragraph 49 of Plaintiff's Complaint, DEFENDANT  
4 denies the allegations contained therein.

5           50.    Answering Paragraph 50 of Plaintiff's Complaint, DEFENDANT is  
6 without sufficient knowledge or information to form a belief as to the truth of the  
7 allegations contained in said paragraph, and, on that basis, denies the allegations  
8 contained therein.

9           51.    Answering Paragraph 51 of Plaintiff's Complaint, DEFENDANT  
10 denies the allegations contained therein.

11           52.    Answering Paragraph 52 of Plaintiff's Complaint, DEFENDANT  
12 denies the allegations contained therein.

13           53.    Answering Paragraph 53 of Plaintiff's Complaint, DEFENDANT  
14 denies the allegations contained therein.

15                           **THIRD CAUSE OF ACTION**

16           54.    Answering Paragraph 54 of Plaintiff's Complaint, DEFENDANT  
17 incorporates here by reference and realleges his answers to paragraphs 1 through  
18 53 of Plaintiff's Complaint.

19           55.    Answering Paragraph 55 of Plaintiff's Complaint, DEFENDANT  
20 denies the allegations contained therein.

21           56.    Answering Paragraph 56 of Plaintiff's Complaint, DEFENDANT  
22 denies the allegations contained therein.

23           57.    Answering Paragraph 57 of Plaintiff's Complaint, DEFENDANT  
24 denies the allegations contained therein.

25           58.    Answering Paragraph 58 of Plaintiff's Complaint, DEFENDANT  
26 denies the allegations contained therein.

27           59.    Answering Paragraph 59 of Plaintiff's Complaint, DEFENDANT  
denies the allegations contained therein.

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1           60. Answering Paragraph 60 of Plaintiff's Complaint, DEFENDANT  
2 denies the allegations contained therein.

3                           **FOURTH CAUSE OF ACTION**

4           61. Answering Paragraph 61 of Plaintiff's Complaint, DEFENDANT  
5 denies the allegations contained therein.

6           62. Answering Paragraph 62 of Plaintiff's Complaint, DEFENDANT  
7 denies the allegations contained therein.

8           63. Answering Paragraph 63 of Plaintiff's Complaint, DEFENDANT  
9 denies the allegations contained therein.

10                          **FIFTH CAUSE OF ACTION**

11           64. Answering Paragraph 64 of Plaintiff's Complaint, DEFENDANT  
12 incorporates here by reference and realleges his answers to paragraphs 1 through  
13 63 of Plaintiff's Complaint.

14           65. Answering Paragraph 65 of Plaintiff's Complaint, DEFENDANT is  
15 without sufficient knowledge or information to form a belief as to the truth of the  
16 allegations contained in said paragraph, and, on that basis, denies the allegations  
17 contained therein.

18           66. Answering Paragraph 66 of Plaintiff's Complaint, DEFENDANT  
19 denies the allegations contained therein.

20           67. Answering Paragraph 67 of Plaintiff's Complaint, DEFENDANT  
21 denies the allegations contained therein.

22           68. Answering Paragraph 68 of Plaintiff's Complaint, DEFENDANT  
23 denies the allegations contained therein.

24           69. Answering Paragraph 69 of Plaintiff's Complaint, DEFENDANT  
25 denies the allegations contained therein.

26                          **AFFIRMATIVE DEFENSES**

27           1. As for a first, separate and distinct affirmative defense to the  
Complaint, and each and every count therein,

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1 DEFENDANT alleges that Plaintiff's Complaint fails to state the facts sufficient to  
2 constitute a claim.

3 2. As for a second, separate and distinct affirmative defense to the  
4 Complaint, and each and every count therein, DEFENDANT alleges that  
5 Plaintiff's Complaint fails to demonstrate the inadequacy of legal relief.

6 3. As for a third, separate and distinct affirmative defense to the  
7 Complaint, and each and every count therein, DEFENDANT alleges, on  
8 information and belief, that the sole and proximate cause of the acts complained of  
9 by Plaintiff were due to the acts and/or omissions of persons and entities other than  
10 DEFENDANT.

11 4. As for a fourth, separate and distinct affirmative defense to the  
12 Complaint, and each and every count therein, DEFENDANT alleges that the  
13 causes of action set forth in the Complaint are, and each of them is, barred in  
14 whole or in part by the privilege of fair competition.

15 5. As for a fifth, separate and distinct affirmative defense to the  
16 Complaint, and each and every count therein, DEFENDANT alleges that said  
17 DEFENDANT acted at all times within the scope of discretion, in good faith, with  
18 due care, and pursuant to applicable rules, regulations and practices reasonably and  
19 in good faith belief to be in accordance with the Constitution and laws of the  
20 United States or the State of California, and this DEFENDANT, therefore, is not  
21 liable.

22 6. As for a sixth, separate and distinct affirmative defense to the  
23 Complaint, and each and every count therein, DEFENDANT alleges that  
24 DEFENDANT's name, marks and symbols are dissimilar to those of Plaintiff,  
25 there is no possibility of confusion as to the source of goods, there is no reasonable  
26 implication of endorsement of goods.

27 7. As for a seventh, separate and distinct affirmative defense to the  
Complaint, and each and every count therein,

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1 DEFENDANT alleges that some or all of the Plaintiff's alleged trade dress is  
2 functional and, therefore, not subject to trade dress protection.

3 8. As for an eighth, separate and distinct affirmative defense to the  
4 Complaint, and each and every count therein, DEFENDANT alleges that each and  
5 every claim is barred in whole or in part by the privilege of fair use.

6 9. As for a ninth, separate and distinct affirmative defense to the  
7 Complaint, and each and every count therein, DEFENDANT alleges that  
8 Plaintiff's alleged trademarks are weak marks does not extend to DEFENDANT's  
9 products.

10 10. As for a tenth, separate and distinct affirmative defense to the  
11 Complaint, and each and every count therein, DEFENDANT alleges that  
12 Plaintiff's claims are barred due to a lack of fame.

13 11. As for an eleventh, separate and distinct affirmative defense to the  
14 Complaint, and each and every count therein, DEFENDANT alleges that  
15 Plaintiff's claims are barred by the First Sale Doctrine.

16 12. As for a twelfth, separate and distinct affirmative defense to the  
17 Complaint, and each and every count therein, DEFENDANT alleges that he had  
18 implied license to use each and every mark claimed to be owned by Plaintiff based  
19 on Plaintiff's conduct.

20 13. As for a thirteenth, separate and distinct affirmative defense to the  
21 Complaint, and each and every count therein, DEFENDANT alleges that Plaintiff  
22 is barred by the Doctrine of Innocent Intent and that this answering DEFENDANT  
23 acted with innocent intent.

24 14. As for a fourteenth, separate and distinct affirmative defense to the  
25 Complaint, and each and every count therein, DEFENDANT alleges that the  
26 Trademark Registration alleged in the Complaint were improperly issued by the  
27 U.S. Patent and Trademark Office in that said alleged trademarks are merely  
descriptive of the goods of the Plaintiff and said

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1 marks have not become distinctive of Plaintiff's goods in interstate commerce.

2 15. As for a fifteenth, separate and distinct affirmative defense to the  
3 Complaint, and each and every count therein, DEFENDANT alleges that  
4 Plaintiff's alleged trademarks and trade dress are functional and, therefore, not  
5 incontestable, not a trademark from its inception, and incapable of legal protection  
6 under the law.

7 16. As for a sixteenth, separate and distinct affirmative defense to the  
8 Complaint, and each and every count therein, DEFENDANT alleges that  
9 Plaintiff's alleged trademarks are not incontestable because of the limited territory  
10 of an intermediate junior user.

11 17. As for a seventeenth, separate and distinct affirmative defense to the  
12 Complaint, and each and every count therein, DEFENDANT alleges that  
13 Plaintiff's alleged trademarks are not incontestable because of the prior registration  
14 and/or common law rights of DEFENDANT.

15 18. As for an eighteenth, separate and distinct affirmative defense to the  
16 Complaint, and each and every count therein, DEFENDANT alleges that  
17 Plaintiff's alleged trademarks are not incontestable because of DEFENDANT's  
18 fair use of the alleged marks.

19 19. As for a nineteenth, separate and distinct affirmative defense to the  
20 Complaint, and each and every count therein, DEFENDANT alleges that there is  
21 no actual confusion nor any likelihood of confusion between Plaintiff's name or  
22 alleged marks and DEFENDANT's name or marks.

23 20. As for a twentieth, separate and distinct affirmative defense to the  
24 Complaint, and each and every count therein, DEFENDANT alleges that  
25 Plaintiff's alleged trademarks are weak and not infringed, and therefore, the scope  
26 of protection for said weak marks does not extend to DEFENDANT's trademarks.  
27 DEFENDANT contends that there are numerous third-party uses of similar marks.

21. As for a twenty-first, separate and distinct affirmative defense to the Complaint, and each and every count therein, DEFENDANT alleges that Plaintiff have abandoned its alleged rights in the marks by acts which have caused the marks to lose their significance as an indication or origin.

22. As for a twenty-second, separate and distinct affirmative defense to the Complaint, and each and every count therein, DEFENDANT alleges that Plaintiff's alleged marks or symbols are not "trademarks" but are generic names of goods or services.

23. As for a twenty-third, separate and distinct affirmative defense to the Complaint, and each and every count therein, DEFENDANT alleges that Plaintiff's alleged names, marks or symbols are not inherently distinctive and have not become distinctive in that purchasers do not associate the name, marks or symbols with Plaintiff alone.

24. As for a twenty-fourth, separate and distinct affirmative defense to the Complaint, and each and every count therein, DEFENDANT alleges that Plaintiff lacks standing.

DEFENDANT has not completed his investigation of the allegations of the Plaintiff in the Complaint, and specifically reserves the right to amend his Answer and present additional affirmative defenses as necessary.

WHEREFORE, this answering DEFENDANT prays for judgement as follows:

1. That Plaintiff's request for damages be denied;
2. That Plaintiff's request for injunctive relief be denied;
3. For reasonable attorney's fees and costs of suit incurred therein; and
4. For such other and further relief as the Court deems proper.

Dated: February 17, 2016

Raul O. Pinochet

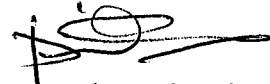
Defendant In Pro Per

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**DEMAND FOR JURY TRIAL**

DEFENDANT hereby demands a jury trial as provided by Rule 38(a) of the  
Federal Rules of Court.

Dated: February 17, 2016



Raul O. Pinochet

Defendant In Pro Per

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On 2/18/16, I served the documents described as:  
(date of mailing)

1. DEFENDANT'S ANSWER
2. CERTIFICATE AND NOTICE OF INTERESTED PARTIES

(list the names of any other documents you are mailing)

on all interested parties in this action by placing a true and correct copy thereof in a sealed envelope, with first-class postage prepaid thereon, and deposited said envelope in the United States mail at or in \_\_\_\_\_, addressed to:  
(city and state of mailing)

<u>NEXIO PC</u>	(name)	_____	(name)
<u>245 FISCHER AVENUE</u>	(address)	_____	(address)
<u>SUITE C3</u>	(address)	_____	(address)
<u>COSTA MESA, CA. 92626</u>	(address)	_____	(address)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on FEB 18, 2016 at WEST COVINA, CAL.  
(date) (city and state of signing)

(sign) Yvonne Pinochet

YEISI PINOCHET  
(print name)